**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.677 OF 2007

The State of Maharashtra. ..Appellant.

**Versus**

Gopal Jayprakash Thakur
and 4 Ors. ..Respondents.

..

Smt.P.H.Kantharia, APP, for the Appellant-State.
None for the Respondents.

..

**CORAM : SMT.V.K.TAHILRAMANI,J.**

**DATED : DECEMBER 07, 2007.**

P.C.:

1. Heard the learned APP for the Appellant-State. None appears for the Respondents, though served.

2. The Appellant-State of Maharashtra has filed this Appeal for enhancement of sentence awarded to Respondent Nos.1 to 5. By judgment and order dated 10.5.2007 the learned Adhoc Additional Sessions Judge-4, Kolhapur, convicted the respondents-accused under Section 399 of IPC and sentenced each of them to suffer RI for three

years and to pay a fine of Rs.500/- each, in default RI for one month. Being aggrieved by the quantum of sentence, the State has preferred this Appeal for enhancement of the sentence.

3. The learned APP has stated that the respondents were caught red handed with weapons that clearly show that they were meant for committing dacoity. She has submitted that the sentence of three years to the respondents is inadequate and the said sentence may be enhanced to 10 years each which is a maximum sentence which can be imposed under Section 399 of IPC.

4. As far as the respondents are concerned, they are young persons. None of them have been previously convicted. Moreover, no antecedents or any pending cases have been pointed out by the prosecution in respect of the respondents. As far as respondent no.1 is concerned, in addition to the fact that he is a young person and has a clean record, he has to maintain his two minor children and aged mother. There is nobody in his family to earn and feed his two children and his aged

mother. As far as respondent No.2 is concerned, he has two children and very old parents to maintain and there is nobody in his family who could earn except him. As far as respondent No.3 is concerned, he has to maintain his wife and brother and there is no other earning member in his family beside him. As far as respondent No.4 is concerned, he had only his aged mother in his family and there is nobody to look after her. And as far as respondent No.5 is concerned, he has to maintain his aged parents and he is the only earning member in his family.

5. Looking to the fact that the respondents are young persons and they have a clean record and looking to other facts which are stated above, I am of the opinion that the sentence awarded to the respondents-orig.accused of three years each by the learned Sessions Judge is adequate and it does not require to be enhanced. Hence, Appeal for enhancement of sentence is dismissed.

**(SMT.V.K.TAHILRAMANI,J.)**